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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,020	07/23/2003	Kevin L. Parsons	89199	8420
24628	7590	02/25/2005	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			PIERCE, WILLIAM M	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,020

Applicant(s)

PARSONS, KEVIN L.

Examiner

William M Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-54 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

WILLIAM M. PIERCE  
PRIMARY EXAMINER

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**DETAILED ACTION**

Claims 1-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

One cannot determine whether a "pressurize spray cartridge" is being claimed in combination. Using claim 1 as an example, while it uses "adapted" language, claims like claim 9 more positively refer to structural relationships and a "discharge nozzle of an inserted pressurized spray cartridge". To the extent that applicant may consider the claim to "not include" the combination of the spray cartridge, such is considered a necessary element of the invention as disclosed and would suggest amendments to the claims that clearly reflect its combination. "Supported within the forward portion" is ambiguous and one cannot determine if it relates to the nozzle plate, discharge orifice or the combination thereof. Likewise, "and an opposite second end" could refer to a separate element or part of the functional statement of "having a first end adapted..."

In claims 3, 18, 21, 29, 32, 50 and 53 how to "define" threads and claims 17 and 46 the limitations required by "associated" is unclear.

Claims 22-26, 30 pertaining to the switch mechanism lack necessary structural relationship to render the claims clear. The claims currently recite a list of elements.

Claims 28 and 52 fails to further limit the structure of the claimed invention. Further, the metes and bounds of a "snap action movement" is unclear.

In claims 8 and 37 "material suitable" is indefinite and "such as foam" does not present a clear metes and bounds for the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons 6,283,609 in view of Ashihara 5,192,074 and further in view of Chen 5,446,985.

As to claim 1-5, 7, 8, 18, 19-21, 27, 28, 47, 48 and 50-54, '609 show a tubular body 10, tubular connector 402 and baton 60. From figs. 13 and 14 of -074 teaches that gas ejecting devices and illuminating devices in batons are interchangeably desirable police defensive equipment. Replacing the illumination of '609 with a gas ejecting

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device would have been an obvious matter of replacing one known equipment for that of another. '985 further teaches the design of a gas dispensing device for use in a baton having a dispenser 10, a nozzle plate 15 having an orifice 26. To have place the device and the arrangement of '985 in the connector of '609 would have been obvious as taught by '074. As to claim 6, '985 shows tubular sleeve 40. As to claims 17 and 46, '609 shows o-ring 213

10-16 and 39-45, flashlights having outer plate lenses of different type are old and well known to suit the desired use. For example, clear for brightness, red for low visibility by others, blue for signaling and the like. To have provided a plurality of different lenses in '609 would have been obvious in order to make the device suitable for different purposes. As to claim 22-24, 30-38 the switch of '985 teaches a plunger actuator 51, actuator button 52 and safety slide button 59, guide pin 56, spring 54, retainer leg 57. Claim 25 is considered an obvious matter of design choice. 56 and 57 are considered "mutually cooperable channels" as called for by claim 26.

Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons 6,283,609 in view of Ashihara 5,192,074 and further in view of Chen 5,446,985 and further in view of Pierpoint 5,842,602.

While '985 shows ejecting the gas from a side portion of the lens, '074 teaches ejecting the alignment of the nozzle gas canister and the orifice of the device. '602 further teaches that it would have been obvious to have the nozzle of the canister in alignment with the ejecting nozzle so the that the spray would be ejected from the center of the device.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wideman, Brunswig, Banks, Macierowski, Black and O'Brian show batons.


Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address [bill.pierce@USPTO.gov](mailto:bill.pierce@USPTO.gov) or at telephone number (571) 272-4414.

For **official fax** communications to be officially entered in the application the fax number is (703) 872-9306.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.

  
WILLIAM M. PIERCE  
PRIMARY EXAMINER